UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,800	10/23/2001	Andrew R. Ferlitsch	SAL 1028	4802

52894 7590 04/20/2006		EXAMINER
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CAMAS, WA 98607	ART UNIT	PAPER NUMBER
	2625	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/003,800	FERLITSCH, ANDREW R.
	Examiner	Art Unit
	Andrew H. Lam	2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *10 March 2006*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-17* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

- This action is responsive to the following communication: an RCE filed on

  03/10/06.

- Claims 1-17 are pending in the present application. Claims 1, 5-12 and 15- 17

  are amended.

Claim Objections

Claim 7 is objected to because of the following informalities: The word

"compatability" should be "compatibility". Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 16 and 17 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

The claimed invention is a computer related invention. The Computer-

Implemented Invention Guidelines issued by the U.S. Patent and Trademark Office

describe the procedures for examining such inventions.

The first step is to determine whether the invention as defined by the claims falls

within one of the three following categories of unpatentable subject matter: (1)

Functional descriptive material such as a data structure per se or a computer program

per se, (2) Non-functional descriptive material such as music, literary works or pure

data, embodied on a computer readable medium; or (3) A natural phenomenon such as

energy or magnetism. The invention as defined by the claims is not a natural phenomenon or pure data, however, it is a computer program per se, which does not mount/store on any computer-readable medium; therefore, these claims are rejected for non-statutory basis.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program product claimed is merely a set of instructions per se. Since the computer program is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory. The examiner recommends the applicant to replace "a computer-readable medium comprising instructions" with "a computer readable medium comprising computer executable instructions" so it compliances with 35 U.S.C. 101.

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The data signal claimed is merely a set of instructions per se. Since the data signal is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yacoub (U.S. Patent No. 6,452,692) hereinafter Yacoub in view of

Luman (U.S. Patent No. 6,700,678) hereinafter Luman.

Regarding claim 1, Yacoub discloses a method for recovering a failed print task

comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled

to the appropriate printer) that is part of a network comprising at least one computer (fig.

3, client requests print job, step 300) device capable of generating a print task (col. 7,

lines 16-20), said network also comprising and a plurality of printing devices (col. 8,

lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57); and

saving said print task when a print task failure occurs (col. 8, lines 2-4, the server select

a different printer when an error is occurred, then the job is spooled to the selected

printer).

Yacoub does not disclose expressly a method for monitoring said network for a

successful print task; identifying an alternate printer to which said successful print task

was sent; and resending said saved print task to said alternate printer.

Luman discloses a method for monitoring said network (col. 4, lines 15-20 and

col. 5, lines 44-59) for a successful print task (fig. 3); identifying (col. 4, lines 48-50) an

alternate printer to which said successful print task was sent (col. 5, lines 44-59); and

resending said saved print task to said alternate printer (col. 5, lines 44-59 and col. 7,

lines 10-17).

Yacoub and Luman are combinable because they are from a similar field of

endeavor of providing alternate printer when print error occurred. At the time of the

invention, it would have been obvious to a person of ordinary skill in the art to combine
the step of monitoring the network to see if an alternate printers can be used to
complete a failed print task, i.e., the alternate printers sends a positive affirmation that
they can complete the job as taught by Luman with the step of monitoring for print error
and spooling (saving) the print task when an error occurred. The motivation for doing
so would have been to be able to assure that the failed print job can be completed by
using an alternate printer that is compatible thereby, processing the failed print job
without the user having to resend the failed job.

Regarding claim 2, the combination discloses (Yacoub) the method of claim 1
wherein said monitoring for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370,
the server is continuously checking for a print error message from the printer), said
saving (col. 8, lines 2-4, the server select a different printer when an error is occurred,
then the job is spooled to the selected printer), said monitoring for a successful print
task (col. 10, lines 24-26, the server 460 query the database and re-compute to
determine the next available printer, see fig. 4) and said resending are controlled by a
print system component (fig. 5, server 680).

Regarding claim 3, the combination discloses (Yacoub) the method of claim 2
wherein said print system component is a print processor (fig. 5, server 680).

Regarding claim 4, the combination discloses (Yacoub) the method of claim 2
wherein said print system component is a spooler (col. 7, line 31, job is spooled to the
server 330, see fig. 3).

Regarding claim 5, the combination discloses (Yacoub) the method of claim 1 wherein said resending only occurs when said alternate printer is the same printer as said selected printer (col. 15, lines 27-30, if the user wants to wait, then the printer will send an acknowledgment message when the printer is not busy or when it is ready).

Regarding claim 6, the combination discloses (Luman) the method of claim 1 further comprising determining the characteristics of said successful print task and said failed print task and comparing said successful print task characteristics to said failed print task characteristics to determine the compatibility of said alternate printer for said failed print task and wherein said resending only occurs when said alternate printer is compatible with said failed print task (col. 7, lines 10-17).

Regarding claim 7, Yacoub discloses a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computing (fig. 3, client requests print job, step 300) device capable of generating a print task, said network also comprising a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer); and saving said print task when a print task failure occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled (saved) to the selected printer);

Yacoub does not discloses expressly a method for monitoring said network for a successful print task that originates from a different computing device than the

computing device from which said print task originated; identifying an alternate printer to

which said successful print task was sent; analyzing a characteristic of said successful

print task to determine the compatibility of said alternate printer; and resending said

saved print task to said alternate printer when said alternate printer is compatible with

said print task.

Luman discloses a method for monitoring said network (col. 4, lines 15-20 and

col. 5, lines 44-59) for a successful print task that originates from a different computing

device than the computing device from which said print task originated (fig. 3);

identifying an alternate printer to which said successful print task was sent (col. 5, lines

44-59); analyzing a characteristic of said successful print task to determine the

compatibility of said alternate printer (col. 5, lines 50-55); and resending said saved print

task to said alternate printer when said alternate printer is compatible with said print

task (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of

endeavor of providing alternate printer when print error occurred. At the time of the

invention, it would have been obvious to a person of ordinary skill in the art to combine

the step of monitoring the network to see if an alternate printers can be used to

complete a failed print task, i.e., the alternate printers sends a positive affirmation that

they can complete the job as taught by Luman with the step of monitoring for print error

and spooling (saving) the print task when an error occurred. The motivation for doing

so would have been to be able to assure that the failed print job can be completed by

using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

Regarding claim 8, the combination discloses the method of claim 7 wherein said analyzing comprises comparing the characteristics of said successful print task to the characteristics of said print task (Luman, col. 7, lines 1-5).

Regarding claim 9, the combination discloses the method of claim 7 further comprising comparing the capability (Luman, col. 7, lines 5-10) of said printer to the requirements of said failed print task.

Regarding claim 10, the combination discloses the method of claim 7 wherein said identifying comprises determining the location (Luman, col. 4, lines 48-50) of said printer and said analyzing comprises querying (Luman, col. 6, lines 30-35) said printer for its capabilities and comparing said printer capabilities with the requirements of said failed print task.

Regarding claim 12, Yacoub discloses a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computer (fig. 3, client requests print job, step 300) device capable of generating a print task (col. 7, lines 16-20), said network also comprising and a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer); and saving said failed print task occurs (col. 8, lines 2-4, the server select a

different printer when an error is occurred, then the job is spooled to the selected
printer).

Yacoub does not disclose expressly a method for monitoring said print system for
a successful print task; analyzing said successful print task characteristics to determine
the capability of the printer to which said successful print task was sent; evaluating said
printer's capability to determine whether said printer can print said failed print task;
modifying said failed print task to allow printing on said printer when said print task can
not otherwise be printed on said printer; and sending said modified, failed print task to
said printer.

Luman discloses a method for monitoring said print system for a successful print
task (col. 4, lines 15-20 and col. 5, lines 44-59); analyzing said successful print task
characteristics to determine the capability of the printer to which said successful print
task was sent (col. 5, lines 50-55); evaluating said printer's capability to determine
whether said printer can print said failed print task (col. 5, lines 50-55); modifying (col. 5,
lines 39-42) said failed print task to allow printing on said printer when said print task
can not otherwise be printed on said printer; and sending said modified, failed print task
to said printer (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of
endeavor of providing alternate printer when print error occurred. At the time of the
invention, it would have been obvious to a person of ordinary skill in the art to combine
the step of monitoring the network to see if an alternate printers can be used to
complete a failed print task, i.e., the alternate printers sends a positive affirmation that

they can complete the job as taught by Luman with the step of monitoring for print error

and spooling (saving) the print task when an error occurred. The motivation for doing

so would have been to be able to assure that the failed print job can be completed by

using an alternate printer that is compatible thereby, processing the failed print job

without the user having to resend the failed job.

Regarding claim 13, the combination discloses the method of claim 12 wherein

said modifying comprises emulating at least one element of (Luman, col. 5, lines 39-40)

said print task in software that would otherwise have been performed by printer

hardware.

Regarding claim 14, the combination discloses the method of claim 12 wherein

said modifying comprises emulating page formatting in software (Luman, col. 5, lines

39-40).

Regarding claims 15, 16 and 17, Yacoub discloses a system (fig. 3, shows a

system for recovering a failed print job) for recovering a failed print task comprising:

a first sender (fig. 2, user sends print job, step 200) for sending a print task to a

selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is

part of a network comprising at least one computing device (fig. 3, client requests print

job, step 300) capable of generating a print task, said network also comprising a

plurality of print devices (col. 8, lines 8-10); a first monitor for monitoring a said print

task for a print task failure(col. 7, lines 55-57, in fig. 3 at step 370, the server is

continuously checking for a print error message from the printer); and storage for saving

(col. 8, lines 2-4, the server select a different printer when an error is occurred, then the

job is spooled (saved) to the selected printer) a failed print task when a print task failure

occurs.

Yacoub does not disclose expressly a second monitor for monitoring said

network for a successful print task; an analyzer for analyzing said successful print task

characteristics to determine the of the printer to which said successful print task was

sent; an evaluator for evaluating said printer's capability to determine whether said

printer can print said failed print; a sender for resending said saved, failed print task to

said printer if said printer is capable of printing said failed print task.

Luman discloses a second monitor for monitoring said network (col. 4, lines 15-

20 and col. 5, lines 44-59) for a successful print task; an analyzer for analyzing said

successful print task characteristics to determine the of the printer to which said

successful print task was sent (col. 5, lines 50-55); an evaluator for evaluating said

printer's capability to determine whether said printer can print said failed print (col. 7,

lines 5-10); a sender for resending said saved, failed print task to said printer if said

printer is capable of printing said failed print task (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of

endeavor of providing alternate printer when print error occurred. At the time of the

invention, it would have been obvious to a person of ordinary skill in the art to combine

the step of monitoring the network to see if an alternate printers can be used to

complete a failed print task, i.e., the alternate printers sends a positive affirmation that

they can complete the job as taught by Luman with the step of monitoring for print error

and spooling (saving) the print task when an error occurred. The motivation for doing

so would have been to be able to assure that the failed print job can be completed by

using an alternate printer that is compatible thereby, processing the failed print job

without the user having to resend the failed job.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoub

and Luman further in view of Shah et al (U.S. Patent No. 6,618,167).

Regarding claim 11, Yacoub disclose a method for recovering a failed print task

comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled

to the appropriate printer) that is part of a network comprising at least one computer (fig.

3, client requests print job, step 300) device capable of generating a print task (col. 7,

lines 16-20), said network also comprising and a plurality of printing devices (col. 8,

lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57); saving

said print task when a print task failure occurs (col. 8, lines 2-4, the server select a

different printer when an error is occurred, then the job is spooled to the selected

printer); prompting said user to choose to reprint said failed print task if said printer is

capable of printing said failed print task (col. 3, lines 26-32); and resending said save,

failed print task to said printer if said user has chosen to reprint said failed print task

(col. 3, lines 26-32).

Yacoub does not disclose a method for monitoring said network for a successful

print task; analyzing said successful print task characteristics to determine the capability

of a printer to which said successful print task was sent; and evaluating said printer's

capability to determine whether said printer can print said failed print task.

Luman discloses a method for monitoring said network for a successful print task (col. 4, lines 15-20 and col. 5, lines 44-59); analyzing said successful print task characteristics to determine the capability of a printer to which said successful print task was sent (col. 5, lines 50-55); and evaluating said printer's capability to determine whether said printer can print said failed print task (col. 5, lines 50-55).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing so would have been to be able to assure that the failed print job can be completed by using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

The combination (Yacoub and Luman) does not disclose the method for prompting a user to prioritize a failed print task when a print task failure occurs; and saving said failed print task when its priority is sufficiently high.

Shah discloses that a customer can prioritize print job (col. 2, lines 32-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination (Yacoub and Luman) as per teaching of

the highest priority (most important print job) get printed first (col. 3, lines 55-56) after it

has been recovery from failure as taught by the combination.

Response to Arguments

Applicant's arguments, see pages 10-12, filed 3/10/06, with respect to the rejection(s) of

claims 1-10 and 12-17 under 102(e), and 11 under 103(a) have been fully considered

and are persuasive. Therefore, the rejection has been withdrawn. However, upon

further consideration, a new ground(s) of rejection is made in view of newly found prior

art references due to newly amended limitations as cited in claims 1, 5-12, and 15-17.

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew H. Lam whose telephone number is (571) 272-

8569. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kimberly Williams can be reached on (571) 272-7437. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

KING Y. POON
PRIMARY EXAMINER